

BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes

May 6, 2004

A meeting of the Board of Environmental Protection was held on Thursday, May 6, 2004, at the Holiday Inn / Ground Round in Augusta, Maine. Richard Wardwell, Chair, called the meeting to order at 9:00 a.m. with the following individuals present:

Board: Ernest Hilton, Nancy Anderson, Donald Guimond, Katharine Littlefield, Virginia Plummer, Richard Wardwell, Nancy Ziegler, Jean T. Wilkinson and Matt Scott

Absent: Irving Faunce

<u>Staff:</u>	<u>Bureau of Air Quality</u>	Ron Severance
	<u>Bureau of Air Quality</u>	Andrea Lani
	<u>Bureau of Air Quality</u>	Jeffrey Crawford
	<u>Bureau of Land and Water Quality</u>	Pam Parker
	<u>Bureau of Land and Water Quality</u>	Richard Green
	<u>Bureau of Remediation and Waste Mgmt.</u>	Ed Antz
	<u>Bureau of Remediation and Waste Mgmt.</u>	Carol Cifrino
	<u>Bureau of Remediation and Waste Mgmt.</u>	John James

Others: David P. Littell, Deputy Commissioner
Peggy McCloskey, Office of Attorney General
Jerry Reid, Office of Attorney General
Cynthia Bertocci, Executive Analyst
Terry Hanson, Administrative Assistant

(Meeting adjourned at approximately 5:00 p.m.)

I. DEPARTMENTAL

A. COMMISSIONER'S COMMENTS: Deputy Commissioner David Littell reported the following:

Steve Davis, Bureau Director in Remediation and Waste Management is in attendance this morning to assist the Board in its consideration of the NEMA appeal.

Lincoln Pulp & Paper / Eastern Fine Paper: The details of the plan for the purchase of the Lincoln mill are in place. The buyer anticipates finalization of the necessary legal documents to run smoothly. Additionally, the buyer is expecting to have the mill back in operation by late May.

There is an interested party investigating the potential purchase for the Brewer facility. If the interested party decides not to pursue the Brewer facility, the municipality has expressed an interest in the site. City of Brewer is interested in working with the Department on this potential brownfield redevelopment project.

LNG: The Department has been responding to inquiries from the public regarding recent news coverage of TransCanada's possible interest in siting a liquefied natural gas operation on Hope Island in the Portland area. The Department understands that several Maine sites are being looked at for a possible LNG facility. In the event that a site in Maine is selected by TransCanada, the Department anticipates a fall submittal for permitting at the earliest - following all local acceptance of the project.

Questions: Board member Jean Wilkinson asked if the Hope Island site is privately owned and what the Town of Cumberland's involvement would be.

Yes, Hope Island is privately owned. If the current property owner sells to TransCanada, it is the Department's understanding that local re-zoning will need to occur before any state permitting process will begin. According to recent news reports, the Cumberland Town Council voted 5-2 to hold an advisory referendum late June 2004.

Board member Richard Wardwell asked about the level of interest in siting this type of project at Sears Island

The Deputy Commissioner stated that the Department is not aware of any interest in the Sears Island site at this point.

Legislative: The Legislature adjourned without acting on bonds and tax reform. The Department is anticipating bond issues to be addressed upon the Legislature's return later this summer. There are some programs that may not be included in the bond funding this next time around. The community grant program before you today represents the last of those monies unless our bond funds are approved.

On the affirmative side, the Legislature approved the electronic waste bill. The law bans the disposal of electronic waste in landfills and requires manufacturers to take back hazardous components for recycling or proper disposal. DEP will coordinate the implementation of this bill with municipalities over the next year.

B. CHAIRMAN'S COMMENTS: NONE

C. EXECUTIVE ANALYST COMMENTS:

At the May 20th meeting the Board will consider an appeal of the Chair's Fifth Procedural Order in the matter of the application by Inland Fisheries and Wildlife for a public boat ramp at Mere Point, Brunswick. The Board packet material will include the briefs of the parties regarding the issue of whether the applicant has sufficient title, right or interest in the property proposed for development.

The Enforcement Policy work session follow-up is tentatively scheduled for the May 20th meeting. Board members should notify the Executive Analyst of areas of interest in advance of the meeting to help focus the discussion.

D. BOARD CALENDAR: Reviewed

E. DEPARTMENTAL ORDERS: Reviewed

F. EXECUTIVE SESSION: None

II CONSENT AGENDA ITEMS

The Board voted (8-0-1-1) on a motion to approve as presented item 1

Board members Ernest Hilton, Nancy Anderson, Katharine Littlefield, Richard Wardwell, Jean T. Wilkinson, Nancy Ziegler, Virginia Plummer and Matt Scott voted to support the motion. Board member Donald Guimond abstained. Board member Irving Faunce was absent.

1. BEP MINUTES, February 5, 2004 (approval)

The Board voted (9-0-0-1) on a motion to approve items 2, 3, 4, 5, and 6.

Board members Ernest Hilton, Nancy Anderson, Donald Guimond, Katharine Littlefield, Richard Wardwell, Jean T. Wilkinson, Nancy Ziegler, Virginia Plummer and Matt Scott voted to support the motion. Board member Irving Faunce was absent.

2. MARIE S.W. BARHAM and JOHN CHALAPATAS and TOMASSO CICCOMANCINI, Freeport – Administrative Consent Agreement (BLWQ - Land)
3. SCOTT VERRILL, Cumberland - Administrative Consent Agreement (BLWQ – Land)
4. YARMOUTH LUMBER, INC., Gray – Administrative Consent Agreement and Enforcement Order (BRWM)
5. NORTHERN BEDROOMS, INC., Oxford – Administrative Consent Agreement and Enforcement Order (BRWM)
6. CITY OF LEWISTON – Administrative Consent Agreement and Enforcement Order (BRWM)

III. Regular Agenda

1. NATIONAL ELECTRICAL MANUFACTURERS ASSOCIATION (appeal)

Staff: John James, Bureau of Remediation and Waste Management

The Board voted (9-0-0-1) on a motion to deny the appeal filed by the National Electrical Manufacturers Association and affirm the Department's denial of the request for exemption from the prohibition on sale of mercury thermostats in Maine by January 2006 through adoption of the draft proposed Board Order as presented.

Board members Ernest Hilton, Nancy Anderson, Donald Guimond, Katharine Littlefield, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson, Nancy Ziegler and Matt Scott voted to support the motion. Board member Irving Faunce was absent.

The Board voted (9-0-0-1) on a motion to adopt minor changes to the draft proposed order as provided in the attached errata sheet. It was noted that the appellant has reviewed the modifications and has no comments to the Board adopting these proposed changes.

Board members Ernest Hilton, Nancy Anderson, Donald Guimond, Katharine Littlefield, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson, Nancy Ziegler and Matt Scott voted to support the motion. Board member Irving Faunce was absent.

2. CHAPTER 425 ASBESTOS MANAGEMENT REGULATIONS (adoption*)

Staff: Ed Antz, Bureau of Remediation and Waste Management

The Board voted (9-0-0-1) on a motion to adopt as amended the proposed changes to Chapter 425 Asbestos Management Regulations. The vote was taken pursuant to 38 M.R.S.A. Sections 341-D and 585-A.

Board members Ernest Hilton, Nancy Anderson, Donald Guimond, Katharine Littlefield, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson, Nancy Ziegler and Matt Scott voted to support the motion. Board member Irving Faunce was absent.

3. CHAPTER 152 CONTROL OF EMISSIONS OF VOLATILE ORGANIC COMPOUNDS FROM CONSUMER PRODUCTS (post to public hearing)

Staff: Andrea Lani, Bureau of Air Quality

The Board voted (9-0-0-1) on a motion to post to public hearing on June 17, 2004 Chapter 152 Control of Emissions of Volatile Organic Compounds from Consumer Products / New and establish July 1, 2004 as the deadline for written public comments. The vote was taken pursuant to 38 M.R.S.A. Sections 341-D and 585-A.

Board members Ernest Hilton, Nancy Anderson, Donald Guimond, Katharine Littlefield, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson, Nancy Ziegler and Matt Scott voted to support the motion. Board member Irving Faunce was absent.

4. CHAPTER 596 OVERBOARD DISCHARGES – LICENSING AND ABANDONMENT / AMENDMENTS (post to public hearing)

Staff: Pamela Parker, Bureau of Land and Water Quality

The Board voted (9-0-0-1) on a motion to post to public hearing on July 1, 2004 amendments to Chapter 596 Overboard Discharges – Licensing and Abandonment and establish July 16, 2004 as the deadline for written public comment. The vote was taken pursuant to 38 M.R.S.A. Section 341-D(1-B), 413(3), 414(3-A), 414A (1)(B), 464(4)(A), 464(4)(G), 464(7), and 464(8).

Board members Ernest Hilton, Nancy Anderson, Donald Guimond, Katharine Littlefield, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson, Nancy Ziegler and Matt Scott voted to support the motion. Board member Irving Faunce was absent.

5. CHAPTER 594 STATE CONTRIBUTION TO OVERBOARD DISCHARGE REPLACEMENT PROJECTS / AMENDMENTS (post to public hearing)

Staff: Richard Green, Bureau of Land and Water Quality

The Board voted (9-0-0-1) on a motion to post to public hearing on July 1, 2004 amendments to Chapter 594 State Contribution to Overboard Discharge Replacement Projects and establish July 16, 2004 as the deadline for written public comment. The vote was taken pursuant to 38 M.R.S.A. Section 341-D, 411-A, 413 (3) and 414-A (1-B).

Board members Ernest Hilton, Nancy Anderson, Donald Guimond, Katharine Littlefield, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson, Nancy Ziegler and Matt Scott voted to support the motion. Board member Irving Faunce was absent.

6. 2004 SMALL COMMUNITY GRANT PROGRAM / PRIORITY LIST (approval)

Staff: Richard Green, Bureau of Land and Water Quality

The Board voted (8-0-1-1) on a motion to approve the 2004 Small Community Grant Program Priority List as presented. The vote was taken pursuant to 38 M.R.S.A. section 411.

Board members Ernest Hilton, Nancy Anderson, Katharine Littlefield, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson, Nancy Ziegler and Matt Scott voted to support the motion. Board member Donald Guimond abstained. Board member Irving Faunce was absent.

7. CHAPTER 127, NEW MOTOR VEHICLE EMISSION STANDARDS REGULATIONS / AMENDMENTS (adoption*)

Staff: Ron Severance, Bureau of Air Quality

(Note: The Deputy Commissioner, David Littell advised the Chair and members of the Board that he would abstain from participating in this matter and stepped down from the head table)

The Board voted (6-3-0-1) on a motion to deny the petition to amend Chapter 127 to allow for an exemption of diesel-powered passenger cars including the Volkswagen TDI in the State of Maine for a period of three years. The vote was taken pursuant to 38 M.R.S.A., Sections 341-D, 585, 585-A, 585-D; 5 M.R.S.A. Section 8055; and Section 177 of the 1990 Clean Air Act Amendments.

Board members Ernest Hilton, Nancy Anderson, Virginia Plummer, Richard Wardwell, Nancy Ziegler and Matt Scott voted to support the motion. Board members Katharine Littlefield, Jean T. Wilkinson and Donald Guimond voted opposed. Board member Irving Faunce was absent.

8. CHAPTER 148, EMISSIONS FROM SMALLER SCALE ELECTRIC GENERATING RESOURCES / NEW (post to hearing)

Staff: Jeffrey S. Crawford, Bureau of Air Quality

The Board voted (9-0-0-1) to post to public hearing on June 17 Chapter 148, Emissions from Smaller Scale Electric Generating Resources / New and establish June 29, 2004 as the deadline for written public comments. The vote was taken pursuant to 38 M.R.S.A. Sections 341-D and 585-A.

Board members Ernest Hilton, Nancy Anderson, Donald Guimond, Katharine Littlefield, Virginia Plummer, Richard Wardwell, Jean T. Wilkinson, Nancy Ziegler and Matt Scott voted to support the motion. Board member Irving Faunce was absent.

Next Regular Board Meeting – Thursday, May 20, 2004 – Holiday Inn / Ground Round, Augusta